

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7168**

**BILL NUMBER:** HB 1401

**NOTE PREPARED:** Mar 5, 2004

**BILL AMENDED:** Mar 4, 2004

**SUBJECT:** Public Officers Compensation Commission.

**FIRST AUTHOR:** Rep. Kuzman

**FIRST SPONSOR:** Sen. Harrison

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill has the following provisions:

- A. *Public Officers Compensation Advisory Commission* -- It establishes the Public Officers Compensation Advisory Commission to make recommendations to the General Assembly regarding the salaries to be paid to public officers. The bill provides that recommended increases in salaries may not exceed changes in the Indiana nonfarm income.
- B. *Indiana State Teachers' Retirement Fund* -- It provides that for purposes of computing a retirement benefit for a person who is a member of the Indiana State Teachers' Retirement Fund and who takes an unpaid leave of absence to serve in an elected position: (1) "annual compensation" includes the total amount that was not paid to the member but would have been paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position; and (2) the "average of the annual compensation" means the annual compensation for the one year of service in which the member's annual compensation was highest.
- C. *Health Care Adjustments for Judicial Officers* -- It provides health care adjustments (similar to those made to executive branch employees) to members of the judicial branch. It also establishes a Judicial Insurance Adjustment Fee of \$1 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions. The bill provides that the costs of the health care adjustments for judicial branch members be paid from the Judicial Health Adjustment Fee.

**Effective Date:** Upon passage; April 1, 2004; June 1, 2004; July 1, 2004.

**Summary of Net State Impact:** *Health Care Adjustment Costs for Judicial Officers* -- The added costs for this adjustment will be offset by a Judicial Insurance Adjustment Fee of \$1 that will be deposited into the

Judicial Branch Insurance Adjustment Account. The following table compares the added costs shown in detail under *Explanation of State Expenditures* and the estimated revenue from the fee.

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
Revenue From Judicial Insurance Adjustment Fee		\$1,100,000	\$1,100,000
Health Care Adjustment Costs	<u>\$631,527</u>	<u>\$944,528</u>	<u>\$944,528</u>
Net Effect	<u>(\$631,527)</u>	<u>\$155,472</u>	<u>\$155,472</u>

Note: The Personal Services/Fringe Benefit Contingency Fund would finance the added costs from this bill for the rest of FY 2004. As of January 2004, the State Budget Agency estimated that \$17.1 M and \$10.5 M would be the remaining balances in FY 2004 and FY 2005, respectively, after the current salary increases and adjustments are paid from the Fund.

**Explanation of State Expenditures: Public Officers Compensation Advisory Commission:** This bill creates a nine-member Public Officers Compensation Advisory Commission to make recommendations on the salaries of elected statewide public officials and judges. Members of the Commission are appointed by the Speaker of the House, the President Pro Tempore of the Senate, the Governor, the Chief Justice of the Supreme Court, and the Chief Justice of the Court of Appeals. Members may neither be public officers nor public employees. The chairman of the Commission is appointed by the chair of the Legislative Council.

The Commission would be required to meet at least once no later than July 1 of each even-numbered year. (At the call of the chair, the Commission may also meet more frequently.) Members of the Commission would receive a per diem and be covered for travel expenses. The Legislative Services Agency (LSA) would provide administrative support to the Commission. At the request of LSA, the State Personnel Department or the Indiana Judicial Center shall provide other support to the Commission. The Commission may also contract with consultants.

The bill appropriates to the Legislative Services Agency the funds necessary for the Commission's operation.

The Commission would meet to determine the growth in Indiana nonfarm income from the previous year to January 1 of the current year and consider information and recommendations related to public officers' salaries. Before September 1 of each even-numbered year, the Commission is required to make recommendations to the Legislative Council and the State Budget Committee on salary adjustments for public officers. The Commission may not recommend salary increases greater than the growth rate in Indiana nonfarm personal income.

***Salary recommendations made by the Commission do not take effect unless enacted by the General Assembly.***

***Teachers' Retirement Fund (TRF):*** The bill also provides that for purposes of determining a TRF member's pension benefits, the member's "annual compensation" includes the additional amount that would have been paid to the member under the member's employment contract if the member had not taken unpaid leave of absence during the year to serve in an elected position. This section does not affect PERF.

The salary used in the computation would be the member's base contractual salary as a teacher, rather than

the partial amount based on actual teaching service for the year. The specific impact will depend upon the number of TRF members who take unpaid leaves of absence to serve in an appointed or elected position of public service for a period of time toward the end of their teaching career. Assuming the number of members in this category is small relative to the entire TRF active member population, the overall effect on TRF is likely to be small. However, the impact for affected members could be significant. For example, if the final average salary increases to \$40,000 from \$30,000, the annual TRF benefit for a 30-year teacher would increase from \$9,900 to \$13,200. The liability associated with the increased benefit for the 30-year teacher who would retire at age 60, for example, would be over \$30,000. The fund affected is the state General Fund for the Closed Plan.

***Health Care Adjustment Costs:*** Estimated expenditures for FY 2004 through 2006 are the following.

<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
\$631,527	\$944,528	\$944,528

*Background:* P.L. 224-2003 (budget bill) appropriated \$89 M to the Personal Services/Fringe Benefit Contingency Fund for the FY 2004-2005 biennium to be used for “state agency salary increases, fringe benefit increases, and for an employee leave conversion program. This appropriation is subject to Budget Agency allotment, with approval of the Governor, to departments, institutions, and all state agencies. P.L. 224-2003 also defines state agency to include “the judicial department of the state. Currently, this Fund is being used to provide a health insurance adjustment for employees of state executive branch agencies effective January 1, 2003, and January 1, 2004. However, judicial officers are not currently receiving this adjustment. The health care adjustments to state employees in the executive branch have been made as salary increases for employees to offset the increase in the employee share of a health insurance premium.

This bill clarifies that each Supreme Court justice, judge of the Indiana Court of Appeals, Tax Court judge, trial court judge, magistrate, and full-time prosecuting attorney is entitled to health care adjustments in any year that the governor provides a health care adjustment to executive branch employees.

Beginning April 1, 2004, these court officers would receive a lump sum payment of \$1,092 and \$884 prorated over pay periods between April 1, 2004, and December 31, 2004. These amounts correspond to the adjustments made for other executive branch state employees. After January 1, 2005, these court officers would receive these adjustments and any additional adjustments that the governor would grant to other state employees in the executive branch.

*Under Section 1 and 17 of this bill, these health care adjustments are not considered part of the salary of these judicial officers. Accordingly, these expenditures would not affect either state income tax or pension liabilities from the Judges’ Retirement Fund.*

Based on these provisions, up to 478 court officers would receive the following benefits beginning in FY 2004.

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
CY 2003 Lump Sum Adjustment of \$1,092	\$1,092	\$1,092	\$1,092
CY 2004 Prorated Adjustment of \$884	<u>\$229</u>	\$884	\$884
Total Health Care Adjustments	\$1,321	\$1,976	\$1,976
Court Officers Affected	<u>478</u>	<u>478</u>	<u>478</u>
	<u>\$631,527</u>	<u>\$944,528</u>	<u>\$944,528</u>

The following tables show the maximum number and type of court officers that this bill would affect.

<u>Judicial Officers</u>	<u>Number</u>
Supreme Court Justices	5
Court of Appeals Judges	16
Trial Court Judges	300
Magistrates	67
Prosecuting Attorneys	<u>90</u>
Total Number	<u>478</u>

**Explanation of State Revenues:** *Judicial Health Adjustment Fee:* The fee is expected to generate about \$1.1 M each year. The bill establishes a Judicial Health Adjustment Fee of \$1 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions. The fee would begin to be assessed effective July 1, 2004. Circuit court clerks and clerks of city and town courts would be required to remit fee collections to the Auditor of State semiannually.

Revenue collected from this fee will be deposited into the nonreverting Judicial Branch Health Care Adjustment Account, an account within the state General Fund. Money in the account is annually appropriated to the Supreme Court to pay health care adjustments to judges, magistrates, and prosecutors whose entire salaries are paid by the state.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Public Officers; Legislators; Justices of the Supreme Court; Judges of the Court of Appeals; Legislative Services Agency; Teachers' Retirement Fund; State Personnel Department; State Budget Agency; Indiana Judicial Center.

**Local Agencies Affected:** Trial Court Judges; Prosecuting Attorneys; local school corporations with members in TRF; court clerks.

**Information Sources:** Bureau of Economic Analysis; Division of State Court Administration.

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